

Franchise Tax Board**ANALYSIS OF AMENDED BILL**

Author: Speier Analyst: Nicole Kwon Bill Number: SB 1452
Related Bills: See Legislative History Telephone: 845-7800 Amended Date: March 27, 2006
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Omnibus Audit Accountability Act Of 2006/Internal Audits

SUMMARY

This bill would enact the Omnibus Audit Accountability Act of 2006 and require an ongoing internal audit function on state and local agencies to safeguard public funds and the public trust.

This analysis addresses only those provisions of the bill affecting the Franchise Tax Board (FTB).

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

It appears that the purpose of this bill is to focus attention on the importance of internal audit activity to promote public accountability and governance by the local and state agencies.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2007.

POSITION

Pending.

ANALYSISFEDERAL LAW

The Sarbanes-Oxley Act of 2002, Public Law 107-204, covers issues such as the public company accounting oversight board, auditor independence, corporate responsibility, and enhanced financial disclosure. The Act gives additional powers and responsibilities to the United States Securities and Exchange Commission.

STATE LAW

The Bureau of State Audits headed by the State Auditor was created in 1993 to replace the former Auditor General's Office that closed due to budget reductions in December 1992. All of

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the Auditor General's powers, duties, and responsibilities were transferred to the Bureau of State Audits. While the Auditor General's Office had been in the Legislative Branch of State government, the new Bureau of State Audits is in the Executive Branch. To assure its independence, the law frees the bureau from the control of the Executive and Legislative branches. The State Auditor is solely responsible for exercising the bureau's powers and duties and its administrative operations are overseen by a state commission.

The State Auditor is directed by statute to perform financial, compliance, performance, contract, and investigative audits. Specifically, the State Auditor reports annually on California's general purpose financial statements and fulfills the audit requirements of the federal Single Audit Act of 1984.

To undertake these audits, the State Auditor is given full access to all records of state and local agencies, special districts, public contractors, and school districts. General powers include the ability to subpoena records, take depositions, and administer oaths.

The State Auditor also administers the "California Whistleblower Protection Act" and may investigate alleged violations of state or federal law or regulation by state agencies or employees.

PROGRAM BACKGROUND

Currently, the Department of Finance (DOF) performs a quality assurance review of state internal audit organizations every three years. Per rules set by DOF, FTB uses the Institute of Internal Auditors standards and FTB's chief internal auditor reports directly to the FTB executive officer.

THIS BILL

This bill would establish the Omnibus Audit Accountability Act of 2006 to govern state and local agencies. Provisions of the bill would require any state agency that is notified by the State Auditor that it has not implemented an audit recommendation to do the following:

- Provide a written explanation why the audit recommendation has not been implemented to the State Auditor and other entities specified under this bill.
- Notify the specified entities of the estimated date of implementation.

This bill would also require all state agencies with an aggregate spending of \$100,000,000 or more annually to do the following:

- Establish an ongoing internal audit function or enter into an interagency agreement with DOF.
- Establish an audit committee that meets the frameworks recommended by the American Institute of Certified Public Accountants.
- Require all state agencies that have their own internal auditors or that conduct internal audits to conduct internal audit activity under the general and specified standards of internal auditing prescribed by the Institute of Internal Auditors or the Government Auditing Standards issued by the Comptroller General of the United States.

- Require any state agency that does not report to a governing body to meet all the following criteria: (1) the chief internal auditor to be accountable to the head or deputy head of the state agency, (2) the chief internal auditor to report audit findings and recommendations to the head or deputy head of the state agency and to the general counsel, and (3) the internal audit function needs to be organizationally outside the staff or line management function of the unit under audit.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns.

It is unclear what is intended by the term “a governing body.” Depending on how this term is defined, FTB may need to establish “an audit committee” that meets the requirements stated under Section 13886 (b). The author may want to define the term “governing body” or specify the section of the law if it is already defined.

Currently, FTB has a functional reporting relationship between its chief internal auditor to the executive officer. It is unclear whether this operation meets the organizational independence and objectivity required under Section 13887 (a) (3) of this bill.

FISCAL IMPACT

The department's costs to administer this bill cannot be determined until implementation concerns have been resolved, but are anticipated to be significant. This bill would require a change to the existing internal audit program in the department. The additional costs have not been determined at this time. As a contingent implementation plan is further developed, an estimate of department costs will be completed.

ECONOMIC IMPACT

This bill would not impact the amount of income tax revenue.

LEGISLATIVE STAFF CONTACT

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